IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3748 OF 2004

Vishnu Dattatray Hulawle..... Applicant.

Versus

State of Maharashtra & Anr.. .. Respondents.

Mr.N.N.Gawankar with Mr. Arfan A.E.A.Sait
for the Applicant.

Mr.A.S.Gadkari, APP for Respondent No.1.

CORAM : A. M. KHANWILKAR, J.

DATED : 17TH SEPTEMBER, 2004.

P.C.:

Heard learned Counsel for the parties.

2. This application in substance questions the order passed by the Metropolitan Magistrate, 14th Court at Girgaum, Mumbai in Criminal Case No. 606/S of 2002 issuing non-bailable warrant and later issuing proclamation due to non-bailable warrant unexecuted against the applicant.

3. Learned Asstt.Public Prosecutor for the Respondent State states that in view of the recent decision of this Court in Criminal Writ Petition No.1424 of 2003 decided on 1st September, 2004 (D.B.Bhosale, J.), it will be open to the applicant to move the trial Court for cancellation of non-bailable warrant and if the trial Court accedes to that prayer issuance of proclamation as a consequence to that order will also be recalled.

4. In view of the above, learned Counsel for the applicant prays that the applicant be granted liberty to approach the trial Court for appropriate relief but the applicant be protected in the meantime.

5. Having considered the above submission, the present application is disposed of with liberty to the applicant to file appropriate application before the trial Court. That be done within one week from today. In case the applicant fails to take necessary steps within the time granted, it will be open to the authorities to take further steps in the matter as may be permissible in law. On the other hand, if the applicant makes appropriate application before the

trial Court within the specified time, then the trial Court will decide the same on its own merit in accordance with law on the day when the said application is preferred. The applicant shall give advance notice to the complainant before moving the trial Court for necessary relief. The application will be decided on the same date provided it is moved before the trial Court at 10.30 a.m. when the Court resumes.

6. All Authorities concerned to act on an ordinary copy of this order duly authenticated as true copy by the Office.

Sd/-

(A. M. KHANWILKAR, J.)